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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,494	05/16/2006	Jeffrey Bruce McGeorge	CULLP0193US	9315
23908 7590 07/31/2008 RENNER OTTO BOISSELLE & SKLAR, LLP 1621 EUCLID AVENUE NINETEENTH FLOOR CLEVELAND, OH 44115				
EXAMINER THOMPSON, MICHAEL M				
ART UNIT		PAPER NUMBER		
3629				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/561,494

**Applicant(s)**

MCGEORGE, JEFFREY BRUCE

**Examiner**

Michael M. Thompson

**Art Unit**

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/US)
- Paper No(s)/Mail Date 12/19/2008
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of claims 1-8 and 10, drawn to a method of monitoring changes in an information set of wagers placed on the outcome of a sporting contest, in the reply filed on June 9, 2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claim 9 is **withdrawn** from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group II, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 9, 2008.

### ***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: In claim 1, the steps comprised in the method are described in the specification on page 4 as "a method of monitoring and confirming credit card usage, the method comprising the steps of:" Applicant then recites the identical claim body as recited in claim 1. With respect to the claims that recite a method for monitoring changes in an information set of wagers placed on the outcome of a sporting contest, 37 CFR 1.75(d)(1) provides, in part, that "the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description." It appears that the specification adequately provides antecedent basis for

the steps recited in claim 1 as a method for monitoring changes in an information set of wagers placed on the outcome of a sporting contest. No new matter should be added.

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-8 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 1 is rejected as failing to complete the objective which is set forth in the preamble. The preamble states, "[a] method of monitoring changes in an information set of wagers placed on the outcome of a sporting contest, while the steps of the claim do not actually accomplish the objective. In particular, the steps do not recite a step monitoring changes in an information set of wagers placed on the outcome of a sporting contest. Appropriate correction is required.

8. Claim 2 recites the limitation "the wagering activity" in line 1. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 3 recites the limitation "the cardholder's" in line 1. There is insufficient antecedent basis for this limitation in the claim.

10. Claim 4 recites the limitation "the network of computer systems" in line 1. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 4 recites the limitation "the command" in line 5. There is insufficient antecedent basis for this limitation in the claim.
12. Claim 4 recites the limitation "the cardholder's" in line 7. There is insufficient antecedent basis for this limitation in the claim.
13. Claim 6 recites the limitation "the credit card activity" in line 1. There is insufficient antecedent basis for this limitation in the claim.
14. Claim 7 recites the limitation "the network" in line 1. There is insufficient antecedent basis for this limitation in the claim.
15. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As per the method of claim 8, when the examiner considers the language that follows "one history server" in line 2, the scope of the claims is unclear so as not to insure that the public is informed of the boundaries of what constitutes infringement of the patent. Specifically, it is unclear, as a method, whether this language adds any patentable weight to the claimed limitations. Furthermore, it is unclear as to what applicants regard as the invention so that it can be determined whether the claimed invention meets all the criteria for patentability and whether the specification meets the criteria of 35 U.S.C. 112, first paragraph with respect to the claimed invention. MPEP 2173. In short, the examiner considers this language to be functional providing little patentable weight, merely describing the properties of all databases.

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16. Claim 10 recites the limitation "the cardholder" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

17. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

18. Claims 1-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Ginsberg et al. (US 2002/00099648).

19. **With respect to claim 1**, Ginsberg et al. teaches a method of monitoring changes in an information set of wagers placed (i.e. real –time interactive wagering Para. 0028) on the outcome of a sporting contest (i.e. Abstract), the method comprising the steps of: a principal entering into an agreement with a service provider to provide real-time activity monitoring service (i.e. Para. 0031 for the client relationship to acquire services), the service provider monitoring a predetermined information set using at least one computer (i.e. Para. 0028-0029 and 0053), and the service provider providing a real-time alert message to the principal via a remote communications device (RCD) when a change occurs (i.e. Para. 0062 for the proposition that warnings can be set or presented and 0029 for the deliverable RCD's).

20. **With respect to claim 2**, Ginsberg et al. teaches all of the limitations of claim 1, including the service provider utilising a "totalisator agency database" to monitor the wagering activity (i.e. 0030 or 0053).

21. **With respect to claim 3**, Ginsberg et al. teaches all of the limitations of claim 1, including the remote communications device (RCD) comprises the cardholder's fixed or mobile telephone, a personal computing device or a facsimile or pager of the cardholder (i.e. Para. 0020 or 0029).

22. **With respect to claim 4**, Ginsberg et al. teaches all of the limitations of claim 1, including the inherent teaching of a principal having an RCD that has a software component (i.e. such as any web interface Para. 0020) which can be used to send an input command to a software environment that is running on the network of computer systems of the service provider (i.e. Para. 0020 when the user/client/principal interacts via the web) in response to the input command the software environment sends a local input command to a software environment component that processes the command (i.e. the operating systems and wagering software application of the company described in the prior art) and which responds by issuing a local output command to a server infrastructure which in turn sends a remote output command to the cardholder's RCD (i.e. similarly inherent in computer transmission facilitated in the prior art), and in response to a remote output commands, the RCD issues or displays an alert output (i.e. error message displayed on the computer terminal, etc., i.e. Para. 0062 for alert output).

23. **With respect to claim 5**, Ginsberg et al. teaches all of the limitations of claim 1, including the principal can define parameters of a situation in which alert messages are to be issued (i.e. Para. 0062 for entering instructions for alert messages).

24. **With respect to claim 6**, Ginsberg et al. teaches all of the limitations of claim 1, including the service provider using a network of computers or computer systems to monitor the credit card activity (i.e. Para. 0028-0029 and 0066-0067 or claim 51).

25. **With respect to claim 7**, Ginsberg et al. teaches all of the limitations of claims 1 and 5, including the network adapted to send and receive information to and from a credit card agency data server and/or a bank data server, each of which contain real time information regarding the transactions of credit cards (i.e. Para. 0067 or claim 51). Please note that networks are inherently capable or adaptable to allow for sending and receiving information to all types of servers. MPEP 2111.04 for the proposition that claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure.

26. **With respect to claim 8**, Ginsberg et al. teaches all of the limitations of claim 1, further comprising the step of providing at least one history server, the purpose of which is to provide data to any of the computers, the history server scanning all of the transaction data as it becomes available so that the data never needs to be requested from an outside source more than once, the history server storing the data in a database to prevent the need to request the same information numerous times. ((i.e. 0051-0053 or 0066-0067 or claim 51)

27. **With respect to claim 10**, Ginsberg et al. teaches all of the limitations of claims 1 and 8, including the cardholder communicating to the service provider at least one



criteria upon which alerts are to be sent. (i.e. Para. 0062 for entering instructions for alert messages).

### ***Conclusion***

28. The Examiner has pointed out particular references contained in the prior art of record, within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. NPL of the website [www.youbet.com](http://www.youbet.com) more than a year earlier of applicants effective filing date reciting a betting website providing several of the services claimed. Please note that several other references originally recited in the PCT search report may also be applicable.

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael M. Thompson whose telephone number is (571) 270-3605. The examiner can normally be reached on Monday thru Friday 8am-5:30 except Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael M Thompson/  
Examiner, Art Unit 3629  
July 28, 2008

/John G. Weiss/  
Supervisory Patent Examiner, Art Unit 3629